FILED
AUG 25 19
JOSEPH F. SPANIOL, JR.
CLERK

No. 86-199

In the Supreme Court of the United States

OCTOBER TERM, 1986

JOHN HELMICK,

Petitioner,

v.

ROBERT LAUNDERS and MICHAEL DOTY,

Respondents.

SUPPLEMANTARY APPENDIX C TO PETITION FOR WRIT OF CERTIORARI [DISTRICT COURT ORDERS AND FINDINGS]

STEPHEN YAGMAN, a member of
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Attorneys for Petitioner
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APPENDIX C

NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ENTERED
SEP. 21, 1983
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PEASANT FARE, et al.,	No. CV 81-4915 RG(JRx)
Plaintiffs,	
vs.	FINDINGS OF FACT AND CONCLUSIONS OF LAW
AETNA CASUALTY AND SURETY COMPANY, et al.,	
Defendants.	

FINDINGS OF FACT

1.

On September 7, 1980 and September 22, 1980, a fire occurred at Peasant Fare Restaurant, owned by plaintiff, HELMICK.

2.

Based upon the investigation conducted by fire investigators Doty and Morgan for the City

of Anaheim, it was concluded that both fires had been deliberately set.

3.

Further, based on the evidence turned up in the investigation there was reasonable cause to believe that plaintiff, HELMICK, set fire both times to his restaurant.

4.

Deputy District Attorney Robert Launders was in charge of all the arson cases in the Orange County area, and was assigned to prosecute the arson charges against plaintiff, HELMICK.

5.

As was his practice, Deputy District Attorney Launders went to the scene of the arson fire. Upon the consent and authorization of the owner of the property, Mr. Launders went inside the restaurant to walk through the premises.

6.

A preliminary hearing was held in February 1980. The judge hearing the matter concluded the crime of arson had indeed been committed with respect to both the fires. He, however, dismissed the charges because he did not find the evidence sufficiently strong to bind plaintiff, HELMICK, over for trial.

7.

Based upon further information, plaintiff, HELMICK, was again brought up on arson charges. The judge at the second preliminary hearing found that: (1) the search conducted by defendant, LAUNDERS, and Investigator Doty of the Peasant Fare Restaurant was lawful and with consent; (2) the crime of arson had been committed and that there was reasonable basis to bind plaintiff, HELMICK, over for trial.

CONCLUSIONS OF LAW

1.

The initiation and attempted prosecution of plaintiff, HELMICK, by the District Attorney's office was within the prosecutorial duties of the District Attorney, whereby they enjoy a complete and absolute immunity from civil liability. (Imbler v. Pachtman, 424 U.S. 409 (1976).

2.

Investigative functions carried out pursuant to the preparation of a prosecutor's case also enjoys absolute immunity. (Freeman on behalf of the Sanctuary v. Hittle, No. 82-3383 (9th Cir., June 13, slip op. at 2779)

[signature]
RICHARD A. GADBOIS, JR.
United States District
Judge

DATED: SEP. 20, 1983

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ROBERT LAUNDERS

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ENTERED
SEP. 21, 1983
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PEASANT FARE, et al., Plaintiffs, vs. AETNA CASUALTY AND SURETY COMPANY, ect., et al., Defendants.	CASE NO. 81 4915 RG(JRx) ~~PROPOSED~~ ORDER GRANTING SUMMARY JUDGMENT

TO ALL INTERESTED PARTIES AND TO THEIR ATTORNEYS OF RECORD:

The motion of defendant, ROBERT LAUNDERS, for summary judgment pursuant to Rule 56(c) of the Rules of Civil Procedure, having been

presented, and the court being fully advised, finds that the defendant is entitled to a summary judgment as a matter of law.

It is therefore order, adjudged and decreed that the defendant's motion for summary judgment be, and the same hereby is granted, that the plaintiffs have and recover nothing by their suit, that the defendant, ROBERT LAUNDERS, recover his costs and charges expended and have execution therefore.

Entered: _____

Dated: SEP. 15, 1983 RICHARD A. GADBOIS, JR.
UNITED STATES DISTRICT JUDGE

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Attorneys for Defendants
MICHAEL DOTY and NORMAN MORGAN

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ENTERED
SEP. 21, 1983
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PEASANT FARE and JOHN HELMICK, Plaintiffs, vs. AETNA CASUALTY AND SURETY COMPANY, et al., Defendants.	Case No. 81 4915 RG ~~PROPOSED~~ JUDGMENT [Local Rule 3.14.1, United States District Court, Central District]

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

On September 12, 1983, the Motion for Summary Judgment or Summary Adjudication of Issues by defendants Michael Doty and Norman

Morgan came on regularly before the Honorable Richard A. Gadbois, Jr. Upon consideration of the moving papers submitted in support of and in opposition to this motion, the oral arguments of counsel for Defendants Michael Doty and Norman Morgan and Plaintiff John Helmick:

IT IS HEREBY ADJUDGED that the complaint and action against defendants, Michael Doty and Norman Morgan, for violation of plaintiff's civil rights under Title 42 U.S.C. §1983, state a claim upon which relief may be granted [sic], and as a matter of law defendants are entitled to summary adjudication of said issue and a dismissal with prejudice.

IT IS HEREBY ADJUDGED that the complaint and action against defendants Michael Doty and Norman Morgan for common-law false arrest fails to state a claim upon which relief may be granted, and as a matter of law defendants are

entitled to summary adjudication of said issue and a dismissal with prejudice.

IT IS HEREBY ADJUDGED that the complaint and action against defendants Michael Doty and Norman Morgan for common-law malicious prosecution fails to state a claim upon which relief may be granted, and as a matter of law defendants are entitled to summary adjudication of said issue and a dismissal with prejudice.

IT IS HEREBY ADJUDGED that the complaint and action against defendants Michael Doty and Norman Morgan for common-law abuse of process fails to state a claim upon which relief may be granted, and as a matter of law defendants are entitled to summary adjudication of said issue and a dismissal with prejudice.

IT IS HEREBY ADJUDGED that the complaint and action against defendants Michael Doty and Norman Morgan for common-law trespass fails to state a claim upon which relief may be granted, and as a matter of law defendants are entitled

to summary adjudication of said issue and a dismissal with prejudice.

IT IS HEREBY ADJUDGED that the complaint and action against defendants Michael Doty and Norman Morgan for conspiracy fails to state a claim upon which relief may be granted, and as a matter of law defendants are entitled to summary adjudication of said issue and a dismissal with prejudice.

DATED:

RICHARD A. GADBOIS, JR.

JUDGE, UNITED STATES DISTRICT COURT